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KCX-1359 (18231)

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EXAMINER

BUTLER, PATRICK NEAL

ART UNIT

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Response to Arguments

Applicant's arguments filed 14 May 2009 have been fully considered but they are not persuasive.

Applicant argues with respect to the nonstatutory obviousness-type double patenting rejections. Applicant's arguments appear to be on the grounds that:

1) Claims 1, 5, and 11 of U.S. Patent No. 7,488,441 B2 do not claim the limitations of subjecting the fibers to a pneumatic attenuation force in a drawing slot and passing the fibers through a diffusion chamber where the fibers reduce their velocity.

Applicant argues with respect to the 35 U.S.C. § 112, first paragraph, rejections. Applicant's arguments appear to be on the grounds that:

2) Claim 23 does not preclude additional air being present. Only the air providing pneumatic attenuation force is limited.

Applicant argues with respect to the 35 U.S.C. § 103(a) rejections. Applicant's arguments appear to be on the grounds that:

3) Epstein's combination with Haynes '071 would destroy the directional attributes of Haynes '071. Thus, the prior art would be rendered unsatisfactory for its intended purpose.

4) Maggio '134 only discloses one electrostatic charging unit in Fig. 3.

5) Schmit is tumultuous compared to Epstein. Thus, the conditions would not be likely to be combined.

6) Only Applicant's interpretation of Schmit's venting has been made.

Art Unit: 1791

7) Schmit fails to teach the limitation of two oppositely directed electrostatic charging units, and Epstein does not suggest such a teaching.

8) The Office Action cannot have attenuation and slowing between diverging walls.

The Applicant's arguments are addressed as follows:

1) Applicant's arguments on pages numbered 8 and 9 by Applicant in Applicant's Arguments, filed 14 May 2009, with respect to the nonstatutory obviousness-type double patenting rejection have been fully considered and are persuasive. The nonstatutory obviousness-type double patenting rejection of Claims 1, 11, and 23 over claims 1, 5, and 11 of U.S. Patent No. 7,488,441 B2 has been withdrawn.

1) Applicant's Specification does not preclude additional air providing pneumatic attenuation force. As recited on page 2 of the Office Action mailed 03 March 2009:

Even if the specification is held to indicate only one sidewall providing attenuation air, the specification does not preclude any other source of attenuation air as claimed with the closed claim language of "consisting."

1) Moreover, as recited on page 3 of the Office Action mailed 03 March 2009, the Examiner's interpretation of Claim 23's limitation is with respect to the claim limitations and specification's teachings related to pneumatic attenuation force:

Claim 23	Applicant's Specification
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Interpreted text	"...wherein the pneumatic attenuation force is provided by air consisting of attenuation air only entering the drawing slot from the drawing slot sidewall opposing the drawing slot sidewall upon which the electrostatic charging unit is located." (Claim 23, lines 14-16)	"...utilizing attenuation air entering the fiber drawing unit only from the opposing sidewall of the attenuation chamber or fiber drawing slot." (see Specification, page 20, lines 24 and 25)
Examiner's Interpretation	Only air from the opposing sidewall may be present; there may be no other attenuation air present than the air coming from the opposing sidewall. The term "consisting" precludes other attenuation air from being present.	There must be at least some attenuation air present which only came from the opposing sidewall.

2) Although Applicant's arguments with respect to the mutual exclusivity of Haynes '071's web formation and Epstein's teaching of charging from different sides have been considered, the arguments of counsel cannot take the place of evidence in the record.

3) As recited on page 6 of the Office Action mailed 03 March 2009, the purposes of Epstein and Haynes '071 are consistent:

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Epstein into that of Haynes in order to provide the ability to vary the crimping to attain greater softness

Art Unit: 1791

(Epstein, 3:3-6) into fabrics of Haynes '071, which are meant to touch the skin, such as socks (see Haynes '071, page 12, line 10).

4 and 7) Epstein teaches the claimed limitation of alternating electrostatic charging units as recited on pages 5-6 of the Office Action mailed 03 March 2009:

Epstein teaches alternating the electrostatic charge from one side to another and back to the first side material (two or more oppositely directed electrostatic charging units such that at least one emitter device is configured on each side of the fibers so that an electrostatic charge is generated from opposite directions transverse to the direction of travel of the plurality of fibers) (see figs. 7 and 8), and further that the particular placement and arrangement of electrodes is familiar to the ordinary artisan (see col. 3, lines 39-44).

5) Although Applicant's arguments with respect to Schmit is tumultuous compared to Epstein have been considered, the arguments of counsel cannot take the place of evidence in the record.

5) Moreover, as recited on page 11 of the Office Action mailed 03 March 2009, the combination of Schmit and Epstein would be obvious:

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Epstein into that of Schmit in order to provide the ability to vary the crimp to produce greater softness (Epstein, 3:3-6).

6) As recited on page 19 of the Office Action mailed 03 March 2009:

All the teachings of Schmit are relied upon including the recitation of the preferable presence of openings. Thus, Schmit teaches that the diffusers can have no openings (unvented) (see [0010]. Though Schmit states “preferably” with respect to having vents, this is merely a preferred embodiment.

8) Although Applicant’s arguments with respect to the mutual exclusivity of decreasing speed and drawing force have been considered, the arguments of counsel cannot take the place of evidence in the record.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Butler whose telephone number is (571) 272-8517. The examiner can normally be reached on Mon.-Thu. 7:30 a.m.-5 p.m. and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1791

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/P. B./

Examiner, Art Unit 1791

/Christina Johnson/

Supervisory Patent Examiner, Art Unit 1791